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10/026,840	12/27/2001	Bryan M. Elwood	87289.2240	9838

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WASHINGTON, DC 20036

EXAMINER

DANNEMAN, PAUL

ART UNIT	PAPER NUMBER
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3609

MAIL DATE	DELIVERY MODE
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08/08/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/026,840

Applicant(s)

ELWOOD ET AL.

Examiner

Paul Danneman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Status of Claims

1. This action is in response to the application filed on 27 December 2001.
2. Claims 1-21 have been examined.

Drawings

3. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because ***the drawings are hand drawn***. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
5. **Claim 17** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant is using a Trademarked Item in the claim. Trademarks, by their nature, are not necessarily permanent and may refer to many different types of goods and/or services and in addition the types of goods and/or services these trademarks refer to may change over time. Therefore, the Office recommends amending the claims so that they recite a more generic and permanent term.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1 and 21** are rejected under 35 U.S.C. 102(b) as being anticipated by Richard et al., US 6,564,120 B1.

Examiner's note: Examiner has pointed out particular references contained in the prior art of record in the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the **entire** reference as potentially teaching all or part of the claimed invention, as well as the content of the passage as taught by the prior art or disclosed by the Examiner.

Claims 1 and 21:

Richard et al. in at least Fig. 8, Column 2, lines 14-28 teaches:

- ***A storage unit;***
- ***With inner removable storage unit.***

Richard et al. in at least Column 5, lines 42-54 teaches:

- ***Tracking device for monitoring the presence and temperature of an item; and a***
- ***Processing device that reads the tracking data from the tracking device.***

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said

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subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. **Claims 2-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Richard et al., US 6,564,120 B1.

Claims 2 and 3:

With regard to the limitations:

- ***A data storage device electrically linked to the processing device;***
- ***Tracking data is stored in the data storage device.***

Richard et al. in at least Column 2, lines 25-28 discloses a computer operatively connected to a robot mechanism for controlling movement and access operation and for registering the contents of the storage receptacles. Therefore, it would be obvious, at the time of the invention, to a person with ordinary skill in the art that a computer is a data storage device because it has memory for storing tracking data and it is electrically linked to the processing device which is the CPU contained within the computer which is then connected to and controls the robot mechanism.

Claims 4-9:

With regard to the limitations:

- ***Inner storage unit is a rack, a drawer storage rack or a drawer.***
- ***Inner storage unit is a shelf, a tray.***

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Richard et al. in at least Column 3, lines 1-7 discloses the storage receptacles in a rectangular grid array. Richard et al. in at least Column 3, lines 26-30 further discloses that the storage receptacles are analogous to safety deposit boxes with an inner and outer panel to allow access to the safety deposit boxes. Therefore, it would be obvious, at the time of the invention, to a person with ordinary skill in the art that safety deposit style boxes are stored in a rack on a shelf or pull-out tray and the safety deposit box is analogous to a drawer residing within a drawer storage rack.

With regard to the limitation:

- ***Inner storage unit is a Petri dish.***

Richard et al. in at least Column 7, lines 13-15 discloses that storage containers may take any form known in the art. Therefore, it would be obvious, at the time of the invention, to a person with ordinary skill in the art that a Petri dish is a well-known storage container used in laboratories for culturing cells, it's recyclable features and it's ease in allowing the direct viewing of the Petri dish contents via the naked eye or via a microscope.

Claim 10:

With regard to the limitation:

- ***Inner storage unit is a blood bag.***

Richard et al. does not specifically disclose a blood bag as a storage container, but does in at least Column 7, lines 13-15 disclose that storage containers may take any form known in the art. Therefore, it would be obvious, at the time of the invention, to a person with ordinary skill in the art that a blood bag is a recognized storage container used in the medical arts for collecting, dispensing and storing blood; the blood bag has demonstrated versatility in that it may be hung within a storage receptacle or it may be placed in a drawer and stored within a storage receptacle.

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Claims 11-15:

With regard to the limitations wherein the inner storage unit has a conductive portion that electrically links the tracking device to the processing device and the conductive portion is a:

- ***Hook, Phono Jack, Accordion Cable, or a Connector.***

Richard et al. does not specifically disclose a hook, phono jack, an accordion cable or connector, but does in at least Column 5, lines 50-54 disclose that temperature sensors and feedback loops are in operative contact with modules and cooling units for monitoring and controlling the temperatures of modules and storage containers. Richard et al. further discloses in at least Column 5, lines 46-50 that the robot mechanisms are provided with bar code readers for identifying specimens stored in the receptacles of grid arrays and storage containers and the bar code readers are tied to a computer for enabling continued automated supervision and control. Therefore, it would be obvious, at the time of the invention, to a person with ordinary skill in the art that the disclosures by Richard et al. are analogous to the desired features of the invention in the use of a hook, phono jack, an accordion cable or connector which are used to indicate the presence or absence of different types of storage containers and temperature of the storage container for inventory purposes and as a means of determining what temperature ranges the inventory has been exposed and if the inventory is still viable after evaluation of the temperature ranges.

Claim 16:

With regard to the limitation:

- ***Attaching a mechanical arm onto a surface of the storage unit; and***

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Richard et al. does not specifically disclose a mechanical arm on the surface of the storage unit. However Richard et al. in at least Column 6, lines 14-33 discloses that the robot mechanism grasps a hook or other coupling element on the storage unit to extract the storage unit from the storage receptacle. Therefore it would be obvious, at the time of the invention, to a person of ordinary skill in the art that a hook or coupling element is essentially a mechanical arm which serves as a handle allowing the storage unit to be easily removed and replaced within the storage receptacle.

With regard to the limitation:

- ***Coupling a tracking device onto the mechanical arm.***

Richard et al. does not specifically disclose a tracking device coupled to the mechanical arm. However, Richard et al. in at least Column 5, lines 46-50 does disclose the use of bar codes for enabling continued automated supervision and control. Richard et al. in at least Column 6, lines 62-67 further discloses bar code applied to the end walls of the removable storage units, identifying the contents of the storage unit. Therefore it would be obvious, at the time of the invention, to a person of ordinary skill in the art that a bar code is a type of tracking device used for tracking inventory when the bar code is properly attached to the item being tracked.

Claim 18:

With regard to the limitation:

- ***Wherein the mechanical arm is a restraint latch.***

Richard et al. does not disclose a restraint latch. However Richard et al. in at least Column 6, lines 1-5 discloses that the storage unit has compartments and each is closed by a friction-lock, slide-lock or snap-lock covers. Therefore, it would be obvious, at the time of the invention, to one

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of ordinary skill in the art that friction-locks, slide-locks or snap-lock covers are types of restraint latches which are used to prevent a storage unit from accidentally opening and spilling its contents while the storage unit is being inserted or removed from the storage receptacle and during the transportation from one location to another.

Claims 19 and 20:

With regard to the limitations:

- ***Attaching a tracking device to a container,***
- ***Where the container is a Petri dish.***

Richard et al. in at least Column 6, lines 62-67 further discloses bar code applied to the end walls of the removable storage units, identifying the contents of the storage unit. Therefore it would be obvious, at the time of the invention, to a person of ordinary skill in the art that a bar code is a type of tracking device used for tracking the container or item to which the bar code is attached and a Petri dish is a removable storage unit which when coupled to a tracking device its location and contents are easily determined.

11. Claims rejected under 35 U.S.C. 103(a) as being unpatentable over Richard et al., US 6,564,120

B1 as applied to Claims 17-20, and further in view of Nicotera, US 6,421,586 B1.

Claim 17:

With regards to the further limitation of Claim 16 wherein the tracking device is:

- ***Button socket.***

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Richard et al. does not disclose an iButton socket. Nicotera in at least Column 6, lines 12-25, discloses a touch button with a preferred embodiment of a Dallas Semiconductor iButton ® for tracking purposes. Because both Richard et al. and Nicotera teach methods for tracking inventory, it would have been obvious to one skilled in the art to substitute a touch button for a bar code to achieve the predictable results of accurately tracking inventory.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Danneman whose telephone number is 571-270-1863. The examiner can normally be reached on Mon-Friday 7:30AM-5PM EST, ALT Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James A. Reagan can be reached on 571-270-6710. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Paul Danneman
Patent Examiner
2 August 2007

JAMES REAGAN
SUPERVISORY PATENT EXAMINER

